

MT LEGISLATIVE HISTORY

Chapter 252 1973

Bill H. _____ S. 126

Original bill & hist. C

H. Committee on Labor & Employment Relations

S. Committee on Labor & Employment Relations

Hearing Date(s) Feb 23 ☒ C

Hearing Date(s) Jan 22 ☒ C

Feb 28 ☒ C

Feb 05 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 28 ☒ C

_____ ☐ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

February 23, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Friday, February 23, 1973 at 10:30 a.m. in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Colberg and Lee, who were excused.

SENATE BILL # 123 -- SPONSOR: Sen. McKeon said that the bill provides for total permanent disability to receive compensation under the Workmen's Comp. Act. Sen. Siderius endorsed the statements made by Sen. McKeon. Jim Murry, AFL-CIO, supports all of these bills (113-130) minus the Senate amendments. Jim Carden said that it pays 66 2/3% of an injured worker's earnings, not to exceed the state average, under this bill. It provides that any Social Security the injured worker receives will be credited against the Workmen's Comp. benefits. Questions followed. Mr. Neil Keefer, Governor's Advisory Committee, -- drafted the bulk of this package of bills. He helped answer some of the Committee's questions on this and the following bills.

SENATE BILL # 124 -- SPONSOR: Sen. Siderius said that when it was acted on by the Senate Committee, it was amended to have farmers covered. On the floor, in order for the bill to be passed the amendments had to be withdrawn. He urged re-adoption of the amendments. Questions followed.

SENATE BILL # 125 -- SPONSOR: Sen. Siderius introduced Jim Carden, Workmen's Comp., who explained this and some of the following bills. The bill amends the present definition of "independent contractor" to be more liberal. Questions followed. Robert Holding, St. Regis Paper Company, helped answer some of the questions.

SENATE BILL # 126 -- SPONSOR: Sen. McKeon. Jim Carden said that it extends the benefits beyond the three year period for totally permanently disabled workers, in line with the recommendations of the President's Commission. The amendments are allowing, on the showing of a good cause, extensions beyond the three years. The bill doesn't have a large cost factor, because a majority of the cases are resolved in a year and a half. Rep. Driscoll said that the bill should be amended to become retroactive. Questions followed. Jim Murry spoke for the Montana Hospital Assoc. in saying that they preferred it to be handled on a fiscal year basis rather than a calendar year.

SENATE BILL # 127 -- SPONSOR: Sen. McKeon. Jim Carden said that it has to do with a recovery from a third party action that may arise out of negligence. Under the current law, an employee may sue that third party. The insurance carrier may recover up to 50% of the compensation paid to him. To offset the cost of this package of bills, the rate of recovery by the insurance carrier has been changed to up to 100%. Neil Keefer spoke on it -- he wanted the Committee to either kill the bill or strike the Senate amendments. The amendment on page 3, line 19 of the bill was drawn up as a compromise. Questions followed.

WITNESS STATEMENT

Name JAMES CARDEN Date _____
Address HELONA Support ? C
Representing W.C.D. Oppose ? _____
Which Bill ? ALL Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

NAME James W. Murray

ADDRESS P.O. Box 1176

Holmes, Idaho

127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200

DATE _____

WHOM DO YOU REPRESENT? Mont. State AF of CIO

SUPPORT? _____ OPPOSE? _____ AMEND? ☒

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

*We support these bills, but
without the Senate amendments.*

NAME

James W. Murray

12, 13, 14, 15, 16
127, BILL NO. 127, 130

ADDRESS

P.O. Box 1176

DATE

Holston, Tenn.

WHOM DO YOU REPRESENT?

Mont. State AFK-CIO

SUPPORT? _____

OPPOSE? _____

AMEND? _____

✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

We support these bills, but
without the Senate amendments.

NAME Neil S. Kuhn BILL NO. _____
ADDRESS 223, Hart Ave. S.W. DATE _____
Bellingham, Washington
WHOM DO YOU REPRESENT? Governor's Advisory Committee

SUPPORT? ✓ OPPOSE? _____ AM. ? _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

*Support legislative package as drafted by
Governor's advisory committee. Delete Senate
amendments.*

WITNESS STATEMENT

Name Bob Harding Date 2-25-73
 Address 2525 Cleveland - Missoula Support ?
 Representing St. Regis Paper Co. Oppose ?
 Which Bill ? SB 121 - 138 Amend ?

Comments:

Please leave prepared statement with the committee secretary.

SB # 131: Rep. Turner moved, Colberg seconded that it BE CON-
CURRED IN. Motion carried unanimously.

SB # 132: Rep. Colberg moved that it BE CONCURRED IN. motion
carried unanimously.

SB # 133: Rep. Hodges moved that it BE CONCURRED IN AS AMENDED
by the Governor. Discussion followed, Rep. Lee seconded the
motion. Motion carried unanimously.

SB # 134: Rep. Lee moved that it BE CONCURRED IN. Colberg seconded
it; motion carried unanimously.

SB # 135: Rep. Ellerd moved, Lee seconded, that it BE CONCURRED IN.
Motion carried unanimously.

SB # 136: Rep. Tierney moved, seconded by Lee, that it BE CONCURRED
IN. Motion carried unanimously.

SB # 137: Discussion took place. Rep. Turner moved and Colberg
seconded that it BE CONCURRED IN. Motion carried unanimously.

SB # 138: Rep. Baeth moved, Tierney seconded, that it BE CONCURRED
IN. Motion carried unanimously. (Chairman McKittrick then returned)

SB # 123: Rep. Colberg moved, Hodges seconded, that it BE CON-
CURRED IN. Discussion followed. Motion carried; East opposed.

SB # 124: Rep. Lombardi moved, Tierney seconded, that subsection
(7) be reinstated in its entirety. Discussion; motion was then
carried with Hodges, Turman and Tierney opposed. Lombardi moved,
Colberg seconded, that it BE CONCURRED IN AS AMENDED. Motion
carried unanimously.

SB # 125: Rep. Baeth moved, Lee seconded, that it BE CONCURRED IN.
Motion carried unanimously.

SB # 126: Rep. Lee moved, Baeth seconded, that it BE CONCURRED IN.
Motion carried unanimously.

SB # 127: Rep. Baeth moved, seconded by Turman, that the stricken
language on p. 3 lines 19-25 be reinstated; discussion followed.
Motion carried unanimously. Baeth moved to amend on page 4,
lines 21-25 by reinstating the stricken material there-also the
first word on p. 5. Seconded by Turman. Motion carried; Bell
opposed. Baeth moved, Colberg seconded, that it BE CONCURRED IN
AS AMENDED. Motion carried unanimously.

SB # 128: Rep. Hodges moved to reinstate on p. 1, lines 22-24
the material therein. Colberg seconded it; motion carried; East
opposed. Hodges moved it BE CONCURRED IN AS AMENDED; Lombardi

SB 122: Sets a maximum on the limits for Workmen's Compensation for injuries producing partial disability. There shall be no distinction between single, married or men with families. Sixty dollars (\$60) per week is the maximum. The Governor's Council feels that perhaps this will be changed this year but that is the figure that is now the law.

SB 123, 129 and 130: Mr. Holding requested the Committee take additional time to consider the impact of these three bills.

SB 124: Lists those employers exempted from mandatory coverage. "Casual employment" would be not in the usual line of work. Agricultural employers would be considered mandatory. The President's Committee very definitely included agriculture. Agriculture is considered to be a hazardous occupation.

Chairman Siderius asked if an employer hiring one man or more was not covered under Workmen's Compensation and had an injury, would he be subject to penalty. Mr. Carden stated that he could be stripped of his common law defense and subject to a fine up to \$1,000. Mr. Siderius stated that for the last three years the legislators have tried to put farmers under Workmen's Compensation.

Mr. Keefer stated that the Committee attempted, in this legislation, to provide for mandatory coverage rather than elective coverage. They did not do too much about penalties, however SB 131 does provide a penalty. Maybe not strong enough but did not feel there would be any objections to changing the penalty

SB 125: Amendments presented. Page 1, lines 21 through 24, strike entirely, and Page 1, line 25, strike "the individual" and "customarily". Mr. Holding concurred in this.

SB 126: Provides for medical benefits beyond the 36 months. The title of the bill should be amended if the other amendments are accepted. Page 1, line 7 and 8, strike the words "APPROVED BY THE DIVISION OF WORKMEN'S COMPENSATION", and Page 2, line 5, strike the words "for approval", and Page 2, line 7 after the word "period" and before the punctuation "." add the following language "unless the Division and the hospital agree to an interim amendment of the schedule."

Senator Keenan moved to recess, Senator Bertsche seconded the motion. MOTION CARRIED.

Chairman Siderius recessed the hearing until Wednesday, January 24, 12:00 noon to continue hearing bills 127 through 138.


SENATOR GEORGE SIDERIUS, CHAIRMAN

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, February 5, 1973, at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: All members present.

SENATE BILL 124: A new sub-section following sub-section (6), page 2, line 3 to read as follows: "(7) Agricultural employment when there are three (3) or less employees, or the gross annual payroll does not exceed eighteen thousand dollars (\$18,000)."

Senator Bertsche moved, seconded by Senator Keenan, that the amendment be accepted. Motion carried.

Senator Bertsche moved, seconded by Senator Keenan that SB 124 DO PASS AS AMENDED. Motion carried.

SENATE BILL 125: Senator Bertsche moved, Seconded by Senator Lowe that the amendment in Section 2, lines 21 through 24 by striking the sub-section and renumbering the sub-section (3) as (2) and on page 1, line 25, strike the words "the individual" and "customarily", be accepted. Motion carried.

Senator Flynn moved, seconded by Senator Bertsche that SB 125 DO PASS AS AMENDED. Motion carried.

SENATE BILL 126: Senator Bertsche moved, seconded by Senator Lowe that the amendment in the title of the bill being line 7 and 8, by striking the words "APPROVED BY THE DIVISION OF WORKMEN'S COMPENSATION", be accepted. Motion carried.

Senator Bertsche moved, seconded by Senator Flynn that line 25 be amended by adding before the "period" the following "for the injuries sustained", and page 2, line 5 by striking the words "for approval" and page 2, line 7 by adding after the word "period" the following: "unless the division and the hospital agree to interim amendments of the schedule". Motion carried.

Senator Shea moved, seconded by Senator Lowe that Senate Bill 126 DO PASS AS AMENDED. Motion carried.

SENATE BILL 127: To be discussed further. Amendments to be prepared.

SENATE BILL 128: Senator Lowe submitted an amendment for Section 1, Page 1, line 22, after the word "year" delete the "comma" and add a "period" and strike the rest of line 22, all of line 23 and 24. Motion for the amendment carried.

Senator Lowe moved, seconded by Senator Keenan that SB 128 DO PASS AS AMENDED. Motion carried.

(3) Pay to the department its pro rata share of the assessed costs of the department under section 82A-1603(6)."

Section 12. There is a new section to be numbered 82A-1209, R.C.M. 1947, which reads as follows:

82A-1209. Unless inconsistent with this act, any reference in the Revised Codes of Montana, 1947, to the department of law enforcement and public safety means the department of justice.

Section 13. This act is effective on its passage and approval.

Approved: March 9, 1973

CHAPTER NO. 251

An act providing for a definition of "independent contractor" in the Workmen's Compensation Act; and repealing section 92-438, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-438.1, R.C.M. 1947, which reads as follows:

92-438.1 **Independent contractor defined.** An "independent contractor" is one who renders service in the course of an occupation and:

(1) has been and will continue to be free from control or direction over the performance of the services, both under his contract and in fact; and

(2) is engaged in an independently established trade, occupation, profession or business.

Section 2. Section 92-438, R.C.M. 1947, is repealed.

Approved: March 10, 1973

CHAPTER NO. 252

An Act Providing For Medical and Hospital Services To Be Furnished Injured Claimants Under The Workmen's Compensation Act; Repealing Section 92-706, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-706.1, R.C.M. 1947, which reads as follows:

92-706.1 **Medical and hospital services approved by the division are furnished.** In addition to the compensation provided by this act and as an additional benefit separate and apart from compensation, the following shall be furnished:

During the first thirty-six (36) months after the happening of the injury, the employer or insurer shall furnish reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment as may be approved by the division for the injuries sustained. The division, upon application of the injured workman may, for good cause, grant reasonable extensions of the benefits provided in this section.

All hospitals must submit to the division of workmen's compensation, a schedule of fees and charges for treatment of injured workmen to be in effect for at least a twelve (12) month period unless the division and the hospital agree to interim amendments of the schedule. The schedule must be submitted at least thirty (30) days prior to its effective date and shall not exceed the charges prevailing in the hospital for similar treatment of private patients.

Section 2. Section 92-706, R.C.M. 1947, is repealed.

Approved: March 10, 1973

CHAPTER NO. 253

An Act Providing For Amendatory Language To An Existing Funding Procedure Provided In A New Section; And Repealing Section 92-116, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-116.1, R.C.M. 1947, which reads as follows:

92-116.1 **Administration fund.** There is hereby established in the state treasury a workmen's compensation administration fund out of which all costs of administering the workmen's compensation and occupational disease and occupational safety and health act are to be paid upon lawful appropriation. The following moneys collected by the workmen's compensation division shall be deposited in the state treasury to the credit of the workmen's compensation administrative fund and shall be used for the administrative expenses of the division:

(1) all fees and fines provided in sections 92-119, 92-820, 92-1334 and 92-1358;